

**MINUTES  
CITY OF FAIRVIEW  
CITY COUNCIL**

November 4, 2015

**Council Members**

Ted Tosterud, Mayor  
Dan Kreamier  
Steve Prom  
Natalie Voruz (Excused)  
Brian Cooper  
Tamie Arnold  
Ed Bejarana

**Staff**

Christy Wurster, Interim City Administrator  
Gary Kirby, Sergeant  
Allan Berry, Public Works Director  
Lesa Folger, Finance Director  
Heather Martin, City Attorney  
Devree Leymaster, City Recorder

**WORK SESSION (6:00 PM)**

**1. RECOMMENDATION RE: AUTOMATED SPEED ENFORCEMENT (SCHOOL ZONE) PILOT PROJECT**

Sergeant Kirby reported Multnomah County is conducting an additional traffic study between 201<sup>st</sup> and 208<sup>th</sup> prior to the installation of the “your speed is” signage. He also requested the reports from ODOT for the crashes identified in the original discussion information for a more detailed review. He noted warning signs entering the school zones will be required and he reviewed the information and anticipated process with the municipal judge.

During discussion it was noted the intent is for the flashing amber lights to be scheduled during school hours and when school is in session. The “your speed is” signs will operate all the time. It was noted the flashing lights will help identify the school zone. Sergeant Kirby remarked officers are frequently told by violators that they did not realize they were in a school zone. The visual cue of the signs should help decrease speed and increase safety. He proposed completing the initial study, prior to lights, and then a second study after the lights have been installed a few weeks; measure the difference with just the lights. The photo radar can be another good tool to help increase safety and reduce speeds. Councilor Cooper noted the pilot project is a study to see if the photo radar has a positive influence on reduced speeds and safety.

Interim City Administrator Wurster commented the city has sixty days to award the current Request for Proposal (RFP) but could work with the recommended vendor to extend the award. The legislations sunset date for the pilot project is 2022. The Council could opt to not award on this RFP.

Councilor Bejarana remarked the issue is about child safety. Council has demonstrated their commitment to child safety with the funding and installation of the flashing your-speed-is signs. The pilot project is a study to see if radar cameras will enhance child safety. He is in support of running the project, even if the result is proving the cameras do not work.

Councilor Cooper reiterated the pilot project is an Oregon legislature project that Fairview was selected to participate in. He supports moving forward with the pilot project.

Following further discussion, the direction by Council was to hold off on the current RFP, complete the two speed studies (before and after flashing “your speed is” signs), and revisit the topic in two months.

## 2. SIDEWALK PROGRAM

Public Works Director Berry shared maps indicating all the missing sidewalks within Fairview and specifically in Old Town. (*Exhibit A*) The maps identified whether the sidewalks would be in the City or County right-of-way. The Old Town map identified potential funding sources from CDBG, Reynolds School District, and the City.

Director Berry noted once the overall design is developed then can prioritize how the infrastructure is completed and determine funding.

Council discussed contracting for larger scopes of work to get better pricing. Councilor Bejarana commented sidewalks are a public safety issue and an investment in the community.

Director Berry proposed the next step would be to an issue a Request for Proposal (RFP) for a design consultant to put a comprehensive sidewalk design package together. Council supported the proposal and directed staff to provide an estimate for a sidewalk design RFP.

## 3. DEVELOPMENT INCENTIVES ON VACANT COMMERCIAL LAND

Councilor Bejarana proposed changing the program sunset date to coincide with the fiscal year ending, June 30, 2018, and the removal of the term commercial or industrial; program would apply to all vacant land. Councilor Kreamier agreed.

Council discussed options to ensure applicants only participate in one program. City Attorney Martin proposed having applicants certify their participation in only one program i.e. an application; could file a property lien if terms are violated.

Councilor Arnold remarked the program should not be just about vacant land but should include redevelopment and have no investment level. Councilor Bejarana noted Council agreed at the last meeting that there should be a two tier program. The first tier would address the lower investment level. To move the process along Council agreed to adopt the second tier with the understanding the terms of the first tier would be vetted and adopted quickly.

Council President Prom noted he doesn't see the need for an incentive program at this time, but if there is to be one, the incentive should not supersede the hard costs the City has to pay to other organizations.

Council discussed waiving of SDC fees. Councilor Bejarana proposed park SDC's for residential development not be included in the waiver.

## 4. EMPLOYEE HOLIDAY RECOGNITION

Mayor Tosterud shared an idea to give each staff person 4 hours off, paid, during the holiday season in lieu of a holiday gift and/or party. There would be no cost to the City and each department would adjust staffing to accommodate it. Council President Prom proposed closing City Hall at noon on Wednesday, December 23. Staff would get a full day pay, with the benefit of 4 hours off, and would alleviate the staffing issues. Council supported the proposal with the exception of the Police Department. They would be given 4 hours to use by the end of January 2016 due to staff scheduling and coverage issues. City Attorney Martin suggested including the details in a resolution to clarify this is a one-time occurrence.

## 5. DISCUSS GRESHAM FIRE QRV & FIRE SERVICES

Mayor Tosterud summarized the presentation from Gresham Fire at the 3 Cities Meeting regarding the Quick Response Vehicle (QRV) pilot project. The pilot will run one year. It will operate within the three cities for three months. Wood Village has indicated they are going to wait a year and see the results of the QRV before deciding if they want to pursue a stand-alone fire service study. Troutdale has decided to

move forward with the study and included funding in their budget. Mayor Tosterud inquired what the Council would like to do: pursue the study or wait on QRV data.

Councilor Cooper commented there is no definable problem/issue in Fairview. It does not make sense to pursue a study. He supported waiting a year and reviewing the results of the QRV project. Councilor Bejarana agreed.

Council President Prom noted the focus should be on emergency response. There are more medical calls than fire calls. Need to look at different models to address the changing need. Councilor Bejarana commented perhaps they should look at an inter-city medical response service model instead of a complete stand-alone fire station.

Councilor Arnold remarked she supports working with Troutdale to explore viable alternatives. She noted having our own service will give us more control over decisions and give us more of a stake in the process. With the current fire user board, Gresham provides information and the three cities can only make suggestions.

Councilor Kreamier proposed including a process within the contract to mediate/resolve disputes between the Fire Marshal and businesses; an appeal process for businesses.

Council supported waiting six months and readdressing the topic. Will get quarterly updates from the Fire Marshal and inquire about establishing an appeal board for fire rulings.

Mayor Tosterud noted he attended the recent Wood Village and Grand Ronde meeting. They indicated it will take nine months to demo the structure (old dog tracks). They are working on developing a mission statement for development. They noted gaming is not off the table, but what the development will be has not been decided.

## **COUNCIL MEETING (8:00 PM)**

### **1. CALL TO ORDER**

ROLL CALL

PLEDGE OF ALLEGIANCE

### **2. CONSENT AGENDA**

- a. Minutes of October 21, 2015
- b. Authorize the Interim City Administrator to enter into an Intergovernmental Agreement for East Metro Gang Enforcement Team (EMGET) Participation: Resolution 58-2015
- c. Authorize the Interim City Administrator to sign an Amended Intergovernmental Agreement with Multnomah County to Continue Staffing and Operations of the Gresham Temporary Holding Service Temporary Holding IGA: Resolution 61-2015

Councilor Arnold moved to approve the consent agenda and Councilor Cooper seconded. The motion passed unanimously.

AYES: 6

NOES: 0

ABSTAINED: 0

### 3. PRESENTATIONS

#### a. Tobacco Retail Program & Business Income Tax

Multnomah County Commissioner Diane McKeel introduced Policy Manager Rhyse Schols and Environmental Health Services Director Jae Douglas whom will speak regarding the Tobacco Retail Policy and Research Director Christian Gaston who will give an update on the Business Income Tax program.

Mr. Scholes presented a review of the technical part of the program i.e. license fees, penalties and enforcement practices. Ms. Douglas reviewed the Health Departments role in preparing retailers for the program and educational outreach for retailers and the community. The Health Department will oversee the program. (*Exhibit B*)

Mayor Tosterud inquired about the steps of enforcement. Mr. Scholes replied enforcement will follow FDA program guidelines. Step 1 will be a warning letter and step 2 will be to apply civil penalties.

Council President Prom asked if there is work being done within the state legislature about these issues. Mr. Scholes answered yes, there has been some discussion. Senator Laurie Monnes Anderson has been an advocate, but no legislation has passed to date. They expect the conversations to continue.

Mr. Gaston reviewed the proposed changes to the Multnomah County Business Income Tax (BIT). (*Exhibit C*) He noted Portland recently increased the deduction cap to \$100,000. The County is proposing doing the same in order to align the county and city policy to make it easier for small businesses to comply. It will give small business owners some tax relief and simplify tax forms. The BIT revenue is distributed to cities using a formula based on size. This change will marginally reduce a city's BIT revenue.

#### b. Quarterly Budget Update

Finance Director Folger briefed Council on the Budget Report as of September 30, 2015. She noted the budget is on-point for this time period and is similar to where we were last year.

Mayor Tosterud inquired about the status of legal fees. Director Folger answered 19% of the legal fees budget for this fiscal year has been expensed.

### 4. COUNCIL BUSINESS

#### a. Approve Development Incentives on Vacant Commercial Land in the City: Resolution 64-2015

Councilor Bejarana moved to approve Resolution 64-2015 and Councilor Cooper seconded.

Councilor Bejarana moved to amend Resolution 64-2015 striking commercial and industrial from all lines and leave as "all vacant land" and section two, expiration date will be June 30, 2018 to coincide with the fiscal year; and under Exhibit A strike commercial and industrial in all places and Councilor Cooper seconded. The amendment passed unanimously.

AYES: 6

NOES: 0

ABSTAINED: 0

Councilor Bejarana moved to amend Exhibit A to identify the program incentive, as written, as Tier II of the business incentive package and that we adopt the language for Tier I to include all projects from \$0 to \$674,999 based on the same incentives as Tier II with the exception that residential pay all applicable Park SDC's and Councilor Arnold seconded. The amendment passed by majority. Councilor Cooper voted no.

AYES: 5  
NOES: 1  
ABSTAINED: 0

The vote on the main motion to approve Resolution 64-2015 passed by majority. Councilor Cooper voted no.

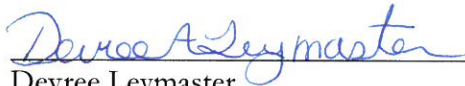
AYES: 5  
NOES: 1  
ABSTAINED: 0

- b. Authorize the Interim City Administrator to enter into a Contract for the Automated Speed Enforcement (School Zone) Pilot Project: Resolution 63-2015  
Mayor Tosterud noted this item is being deferred.

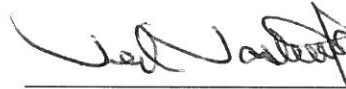
5. ADJOURNMENT

Councilor Kreamier moved to adjourn the meeting and Councilor Bejarana seconded. The motion passed, and the meeting adjourned at 8:45 PM.

AYES: 6  
NOES: 0  
ABSTAINED: 0



Devree Leymaster  
City Recorder



Ted Tosterud  
Mayor

11-19-15

Date of Signing

A complete recording and/or video of these proceedings is available.  
Contact the City of Fairview City Recorder Office, 1300 NE Village St., Fairview, OR 97024, (503) 674-6224.



**SIDEWALK MASTER PLANNING**  
Gap Analysis

**Legend**

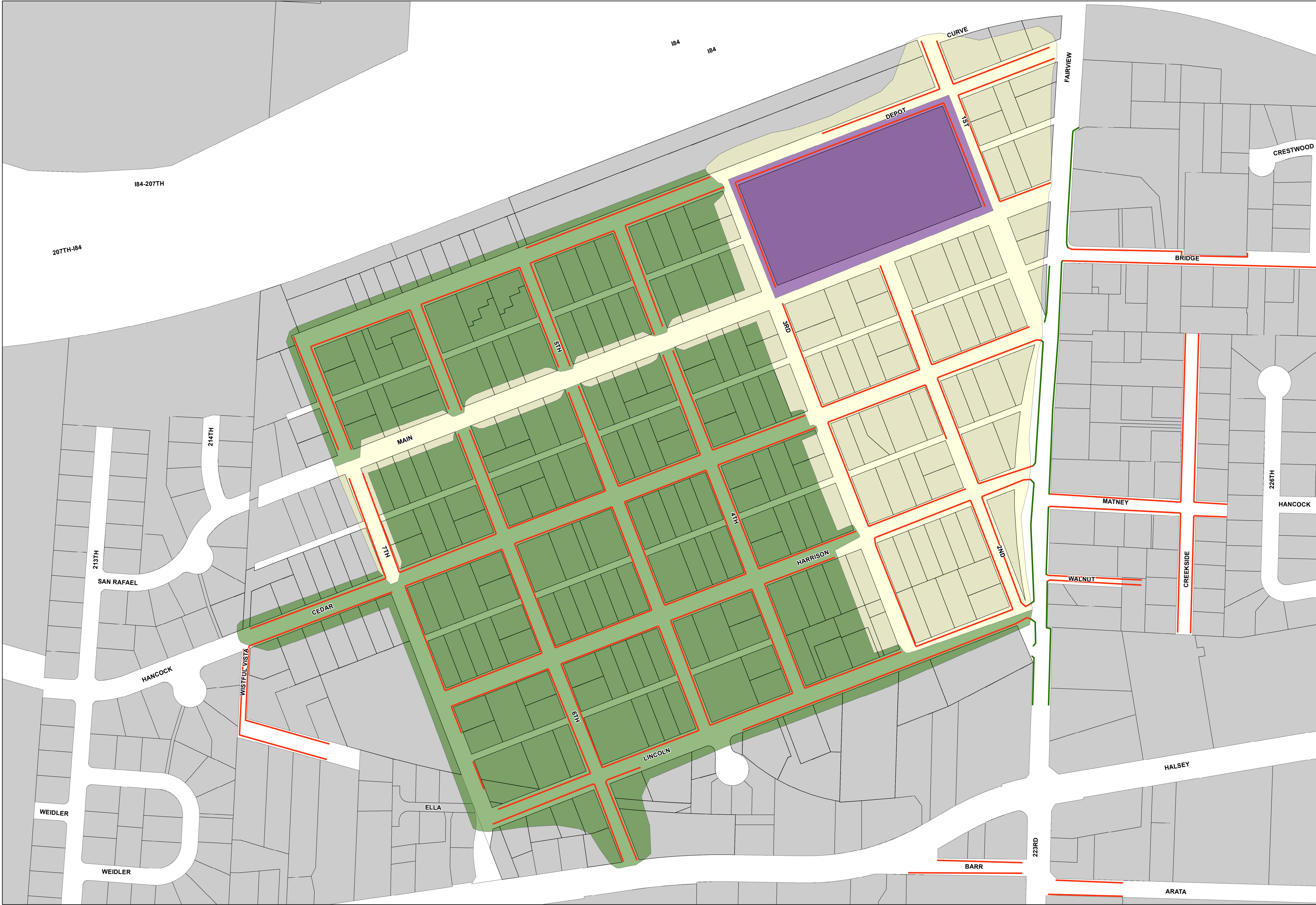
- Fairview City Limits
- Sidewalk Right Of Way**
- Fairview (59,000 LF)
- Multnomah County (35,300 LF)

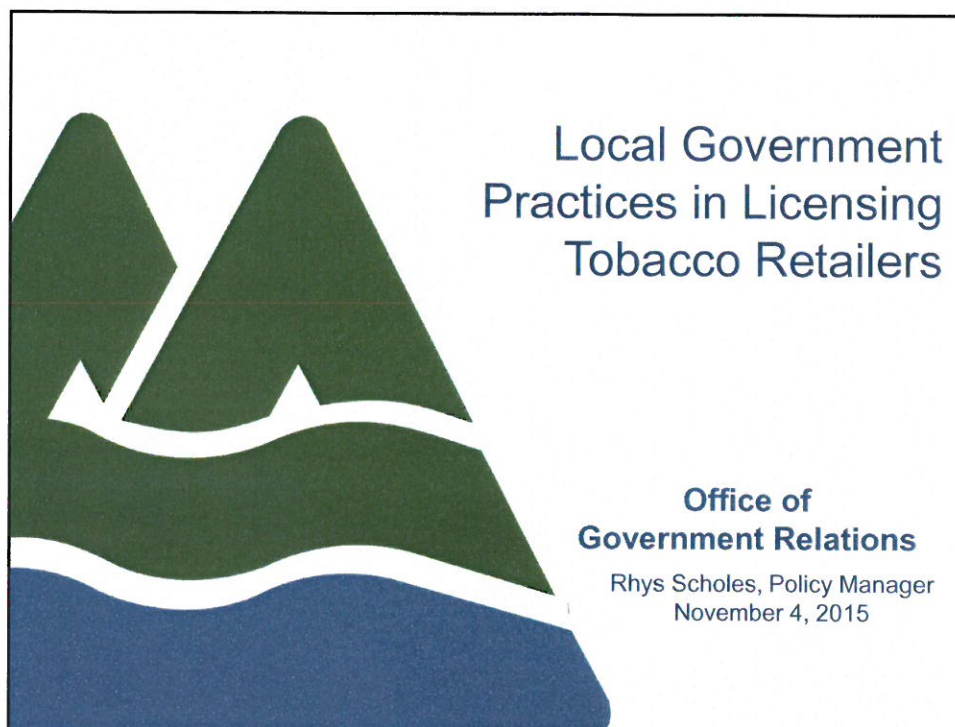


**SIDEWALK  
MASTER PLANNING**  
OLD TOWN

**Legend**

- Taxlots
- Sidewalk Right Of Way**
  - Fairview
  - Multnomah County
- Funding Source**
  - CDBG (7,700 LF)
  - City (19,400 LF)
  - RSD7 (1,300 LF)





## **Youth and Tobacco: What we know**



- Most smokers begin before age 18.
- Young brains are particularly susceptible to nicotine's effects and addictive qualities.
- Multnomah County has one of the highest illegal sales rate of cigarettes to minors in the nation.



## Some youth tobacco reduction strategies

- Media communication
- Peer communication
- Clean air (smoke-free) requirements
- Comprehensive Tobacco Retail Licensing
  - License fees and penalties
  - Enforcement practices



This Briefing



## Minor decoys test retailer compliance

- Two federal programs: Synar and FDA
  - Data often varies, not always comparable
  - Retailers not informed re: Synar results
  - Multnomah County's most recent score was 31.9% in violation
  - 163 inspections with 52 sales to minors
- $52/163 = 31.9\%$  violation rate



## FDA inspections in Multnomah County

So far in 2015, the number of cigarette sales to minors in FDA compliance checks was:

**230 (out of 883 checked) in Portland [26.0%]**

**26 (out of 155) in Gresham [16.8%]**

**3 (out of 14) in Troutdale [21.4%]**

**2 (out of 6) in Fairview [33.3%]**

**1 (out of 7) in Wood Village [14.3%]**

[http://www.accessdata.fda.gov/scripts/oc/inspections/oc\\_insp\\_searching.cfm](http://www.accessdata.fda.gov/scripts/oc/inspections/oc_insp_searching.cfm)



## Ingham County, MI

**License Fee \$335**

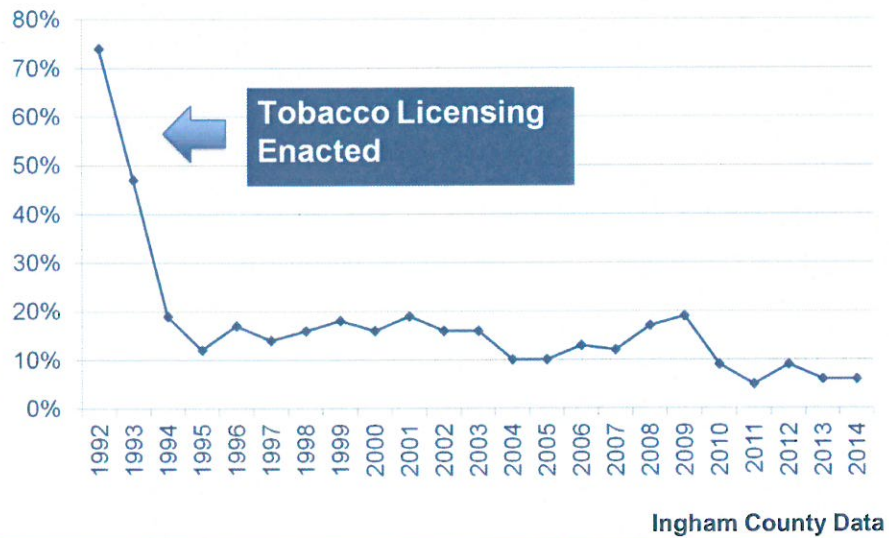


|                         |                                 |
|-------------------------|---------------------------------|
| 1 <sup>st</sup> Offense | \$100 fine                      |
| 2 <sup>nd</sup> Offense | \$270 fine, 30 day suspension   |
| 3 <sup>rd</sup> Offense | \$540 fine, 90 day suspension   |
| 4 <sup>th</sup> Offense | \$1,080 fine, 1 year suspension |

**Enforcement:** Ingham County Health Officer has broad discretion and may be assisted by Sheriff or police. County provides a form for citizens to report retailer violations.



## Ingham County Tobacco Sales to Minors



## Olmstead County, MN

**License Fee** **\$268**  
Plus \$134  
per register

Plus \$300 Minnesota License Fee

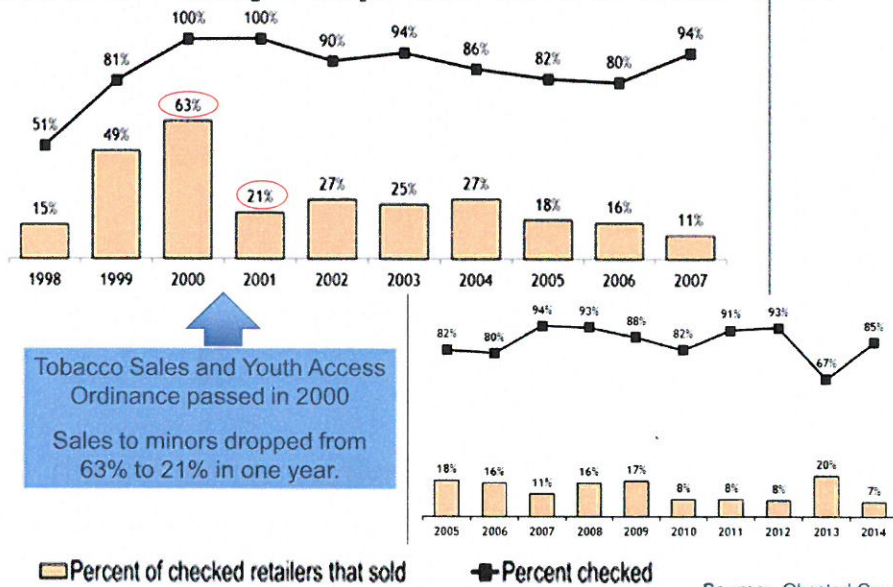


|                         |                              |
|-------------------------|------------------------------|
| 1 <sup>st</sup> Offense | \$75 fine                    |
| 2 <sup>nd</sup> Offense | \$200 fine                   |
| 3 <sup>rd</sup> Offense | \$250 fine, 7 day suspension |
| 4 <sup>th</sup> Offense | One year suspension          |

**Ordinance:** Violation appeals hearings are public meetings. Inhalant delivery systems included as of 2015.



## Olmsted County Compliance Checks 1998 - 2014



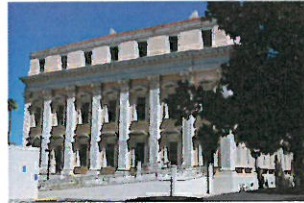
## California licensing

- California Cigarette and Tobacco Products Licensing Act of 2003 authorizes local retail tobacco licensing.
- Now in more than 120 jurisdictions, mostly cities.
- California law limits fees to actual program costs.



## Santa Clara County

**License Fee \$425**



|                         |                           |
|-------------------------|---------------------------|
| 1 <sup>st</sup> Offense | 30 day license suspension |
| 2 <sup>nd</sup> Offense | 90 day license suspension |
| 3 <sup>rd</sup> Offense | 1 year license suspension |
| 4 <sup>th</sup> Offense | Revocation                |

**Enforcement:** Dept. of Environmental Health and County Sheriff cooperate on one inspection and two minor decoy operations per year.



## Santa Clara County's Retail Tobacco Ordinance



Additional provisions include:

- No sales in pharmacies.
- No new permits within 1,000 feet of a school or 500 feet of a tobacco retailer.
- No more than 15 percent of windows can be covered by advertising.
- Flavored tobacco (except menthol) prohibited.



## City of Oakland

**License Fee \$1,550**



|                         |                           |
|-------------------------|---------------------------|
| 1 <sup>st</sup> Offense | 10 day license suspension |
| 2 <sup>nd</sup> Offense | 30 day license suspension |
| 3 <sup>rd</sup> Offense | 90 day license suspension |

**Enforcement:** Police department conducts inspection and sting operations through its Alcoholic Beverage Action Team (ABAT). Appeals can go to City Council.

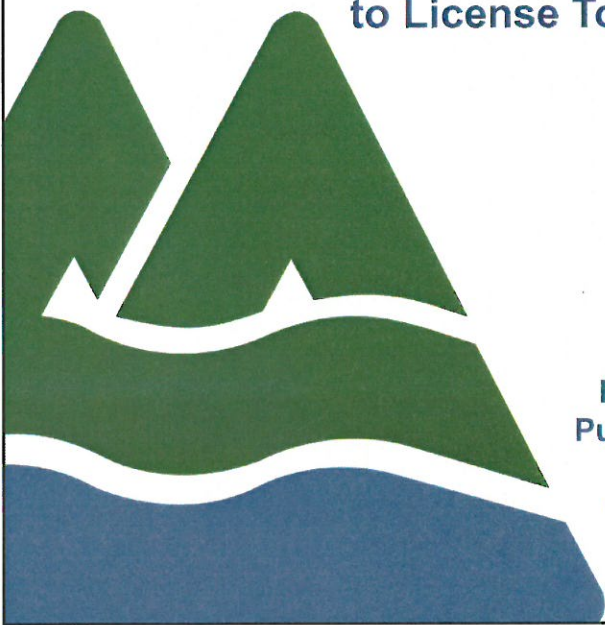


## Jurisdictions with low license fees

- Originally a registration for tax payment enforcement.
- Low license fees don't fund education, don't fund enforcement.

|                |      |
|----------------|------|
| Omaha, NE      | \$25 |
| Beatrice, NE   | \$15 |
| Nelson, NE     | \$10 |
| Birmingham, AL | \$15 |
| Tuscumbia, AL  | \$5  |
| Geneva, AL     | \$3  |

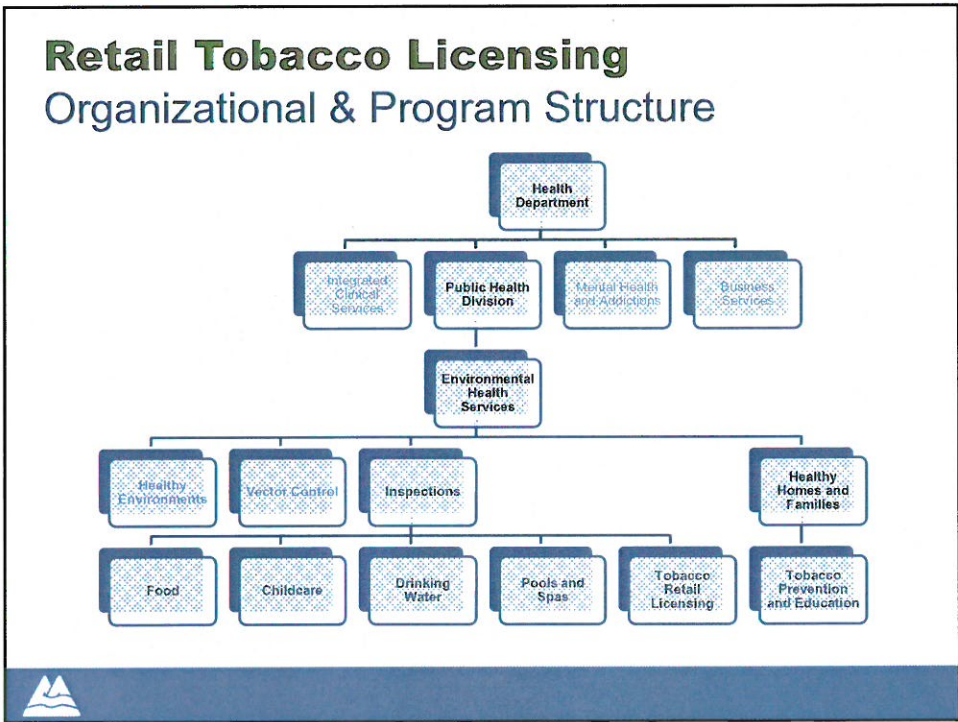




# Health Department Readiness to License Tobacco Retailers

**Health Department  
Public Health Division**

Jae Douglas  
Environmental Health Director  
November 4, 2015



## **Tobacco Retail Licensing**

### Anticipated Core Provisions and Actions

- Community and retailer education and outreach
- Annual license
- Fee-based system
- Includes all retail sales of nicotine products (i.e. tobacco and nicotine vaping products)
- Enforcement system (fines, suspension, revocation)
- No mobile sales
- Violation of any county, state or federal law is a violation of the retail license



## **Equity Considerations in Designing a TRL System**

### **Tobacco Access & Environment**

- Need to work collectively to increase funding for, and delivery of, culturally responsive and trauma-informed smoking cessation programs to those who want to quit smoking and support smokefree environments.

### **Social Equity**

- Inclusion of those most impacted by the policy in rule making process - including small retailers, retailers of color, youth and people of color.



## Equity Considerations in Designing a TRL System

### Economic Stability

- No undue burden on any type of retailers.
- Develop and deliver culturally responsive education and training materials, at no cost, for all retailers and their staff.
- Explore economic develop strategies to support businesses who want to shift away from selling tobacco and nicotine products.
- Explore incentives for early adopters.



## Retail Tobacco Licensing Program Staff and Responsibilities

### Program Supervisor

*Oversee program implementation and maintenance.*

### Program Specialist

*Community education, outreach, routine and complaint enforcement, provide site visits, provides technical assistance to support compliance.*

### Program Communications Coordinator

*Develop media and communication materials, messaging for businesses and community education regarding TRL and IDS*

### Data Analyst

*Analyze data system reports, program evaluation, assist with the development and maintenance of TRL data system; monitor for equitable implementation and outcomes*

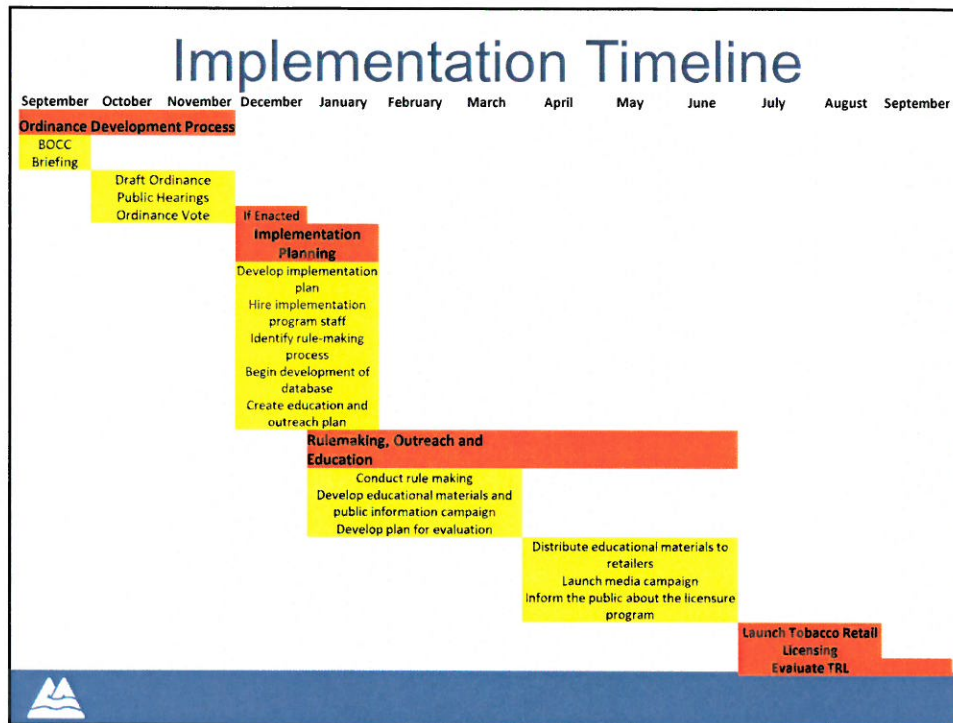
### Office Assistant

*Process license applications, fees, respond to phone calls and requests for information, mailings, etc.*

### Community Health Specialist

*Minor Decoys for surveillance (On-Call). Culturally specific education for retailers.*





# Questions?

## Multnomah County Business Income Tax

The Multnomah County Business Income Tax is a tax on net business income.

The BIT was first created in 1976, at 0.6%. It was increased to 0.95% in 1986, and again to 1.46% in 1987, when the County experienced a huge loss in federal funding. The county dropped the rate to 1.45% in 1993, where it remains today.

The city of Portland collects the Multnomah County Business Income tax as well as their own. If a business operates inside the City of Portland and Multnomah County, only one form is due at the close of the fiscal year and it's useful to taxpayers to align the deductions under the code.

### Proposed change

In order to align the county's policies with the city's and make it easier for small businesses to comply with the tax, we are proposing increasing the maximum Owners Compensation Deduction from \$92,000 to \$100,000. This will allow business owners to keep more of what they earn during the course of operating their business and match the city's Owners Compensation Deduction.

Under the proposal the deduction may equal 75 percent of total income for a maximum deduction of \$100,000 per business owner. Two owners could be two spouses who materially participate in a business or jointly own rental property.

The cost of increasing the deduction is estimated to be \$550,000 -- less than 1 percent of 2016 BIT revenue. However the overall increase in BIT revenues will far outpace that reduction. 2016 BIT revenue is estimated to be \$6.3 million above 2015. Since 2010 BIT revenue has grown an average of 7.5 percent year over year. The deduction is chained to the consumer price index and is projected to increase 2.5 percent each year, with a tax revenue reduction of \$125,000 per year.

The county currently distributes BIT revenue to east county cities under a formula based on their size. Each Owner's Compensation Deduction increase marginally reduces city revenue.

|           | Allocation of<br>BIT revenue | FY16 BIT<br>revenue, per city's<br>budget | Impact of \$550,000<br>total reduction from<br>raising Owners Comp<br>Deduction | As Percent of<br>FY16 BIT<br>allocation |
|-----------|------------------------------|---|---|---|
| Fairview  | 0.690%                       | \$450,000                                 | \$3,794   | 0.84%                                   |
| Gresham   | 8.052%                       | \$5,480,000                               | \$44,288  | 0.81%                                   |
| Troutdale | 1.314%                       | \$873,928                                 | \$7,227   | 0.83%                                   |

|              |        |           |         |       |
|--------------|--------|-----------|---------|-------|
| Wood Village | 0.288% | \$198,504 | \$1,587 | 0.80% |
|--------------|--------|-----------|---------|-------|

Some small technical code adjustments that bring the county code into alignment with the current tax collection practices and align the tax more closely with Portland's code to reduce confusion for taxpayers and preparers are also being considered, such as allowing the county to check on compliance with the code.

**Notable exemptions in code today that highlight who pays the BIT**

- Businesses grossing less than \$50,000 per year from all sources before expenses. (For 1993 – 1998, exemption level = \$15,000. For 1999 – 2007, exemption level = \$25,000.)
- Sole Proprietors filing a federal form 1040 should note "all sources" includes but is not limited to all schedule C's (including that of a spouse, even if located outside the City and/or County), all schedule E income (including incomes earned outside of the City and/or County), and all schedule D income derived from gains from property sales. "All sources" does not include wages.
- Insurance agents, agencies and other representatives as such. Note: "Representatives" means persons selling insurance or transacting insurance as a representative or agent of an insurance company. Such persons must be licensed and regulated by the State of Oregon Insurance Division. Please be aware that "domestic" insurance companies are not exempt.
- Individuals whose only business activity is ownership of less than 10 residential rental units. No exemption is available if any other business activity occurs (including sale of residential property). Note: An individual is a natural person or a joint taxfiler. Partnerships, corporations and all entities other than individuals may not look to this exemption.